

### REMARKS

All claims were rejected as anticipated by Hashizume et al., "Kinetic Analysis of Yeast Inactivation by High Pressure Treatment at Low Temperatures," *Biosci. Biotech.* 59(8):1455-1458, (1995) or obvious from Hashizume et al. alone or in combination with Hayakawa et al., "Oscillatory Compared with Continuous High Pressure Sterilization on *Bacillus Stearothermophilus* Spores," *Journal of Food Science* 59(1):164-167 (1994).

The claims have been amended to specify conditions (pressure cycling at temperatures below 45°C) that are neither disclosed in nor obvious from the cited references, taken alone or in combination. Basis for this amendment can be found at page 16, line 12. Basis for new claim 36 is at page 6, line 19, which teaches a pressure range with a lower limit of 2,000 psi.

As amended, all claims require pressure cycling at a temperature below 45°C. Hayakawa is cited for the idea of pressure cycling, but it only discloses pressure cycling in the context of higher temperature (60°C or 70°C, see Fig. 3) and in the context of bursting bacterial spores. It would not have been obvious that pressure cycling at lower temperatures (below 50°C) would effectively sterilize. Moreover, it would not have been obvious that non-bacterial contaminants, such as those specified in claim 14 could be eliminated effectively by pressure cycling at relatively low temperatures.

The office action combines Hayakawa et al. with Hashizume et al., the latter being cited for the use of a temperature range of -20°C to 50°C. As amended the claims are not obvious from that combination of teachings. Hashizume et al. says that "rapid inactivation took place when the temperature was above 45°C or below -10°C." See page 456 at lines 17-19 of the left column. It would not have been obvious to use a temperature that is not preferred according to Hashizume's teaching, and then to combine that non-preferred teaching with the teaching of Hayakawa. Hayakawa et al.'s pressure oscillation method is taught as a way to destroy bacterial spores. It would not have been obvious to use that method against other pathogens that exhibit entirely different properties, such as those specified in claim 14.

Applicant : James A. Laugharn, Jr. et al.  
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No excess claims fee is believed to be owed. Enclosed is a \$510.00 check for Extension of Time fee. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: \_\_\_\_\_

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*John W. Freeman*

John W. Freeman, Esq.  
Reg. No. 29,066

Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110  
Telephone: (617) 542-5070  
Facsimile: (617) 542-8906